In the High Court of Uttaranchal, at Nainital.

First Appeal No. 646 of 2001

(Old No. 396 of 1985)

The State of U.P. through Collector Dehradun .... Appellant

Vs.

1- Farzand Ali S/o Meherban
R/o Kulhal District Dehradun.

2- Niaz Mohd. S/o Meherban
R/o Kulhal District Dehradun

3- The State of U.P. Electricity Board through the Chief Engineer, Lucknow ...Respondents

Sri Nand Prasad, learned Standing Counsel for the appellant.
Sri Alok Singh, learned Senior Advocate, for the respondents/ claimants.

Hon'ble B.C. Kandpal, J.

This appeal, U/S 54 of the Land Acquisition Act, has been preferred against the judgment and award dated 19-1-1985, passed by Additional District Judge, Dehradun, in Land Acquisition Case No. 5 of 1983, Farzand Ali and others Vs State of U.P., whereby the Motor Accident Claim Tribunal awarded compensation to the claimants, amounting to Rs. 22,814/- in respect of Khasra Plots Nos. 20/2, 22/2 and 24/2 and Rs. 1,68,000/- in respect of Khasra Plot Nos. 3/1 and 3/7, alongwith solatium @ 30% and interest thereon @ 6% per annum up-to 30-6-1982 and @ 12% per annum thereafter.

2- Brief facts giving rise to this appeal, as emerged out from the record, are that the land of claimants comprised of Khasra plot Nos. 3/1 and 3/7 measuring 7.0 acres and Khasra plot Nos. 20/2, 22/2 and 24/2 measuring 0.62 acre, total 7.62 acres, situated in village Kulhal, District Dehradun, was acquired under

the scheme of Khara Hydro Electric Project for construction of Escape Channel and Housing Colony. The notification U/S 4 for the Land Acquisition Act (hereinafter called 'Act') was published on 18-2-1980 and in U.P. Gazette was published on 23-2-1980. The Land Acquisition Officer awarded compensation on the basis of G.O. No. 4503 Sa- Kha-181-C-3 dated 6-9-1981 @ Rs. 15,000/- per acre for Rosli Awwal Khaki land; Rs. 13500/- per acre for Rosli Doem Khaki land and Rs. 12,500/- per acre for Sakara Awwal Khaki land. The L.A.O. also awarded Rs. 3320=50 P. compensation for the standing tree on the land in question.

3- Feeling aggrieved by the award of the L.A.O. the claimants preferred reference before the Additional District Judge, Dehradun U/S 18 of the 'Act'. Parties also filed a number of sale-deeds of the nearby lands.

4- The Reference Court, on assessment of evidence of the parties and hearing the learned counsel for the parties, awarded compensation to the claimants, amounting to Rs. 22,814/- in respect of Khasra Plots Nos. 20/2, 22/2 and 24/2 and Rs. 1,68,000/- in respect of Khasra Plot Nos. 3/1 and 3/7, alongwith solatium @ 30% and interest thereon @ 6% per annum up-to 30-6-1982 and @ 12% per annum thereafter.

5- Feeling aggrieved by the impugned judgment and award of the Reference Court, the State has filed an appeal before the Allahabad High Court and after creation of new State, the appeal has been received by transfer in this court for disposal.

6- Heard learned counsel for the parties and perused the record.

7- Perusal of the award given by the Reference Court it become obvious that it did not consider the sale-deeds filed on behalf of the opposite party/State on the ground that the same relate to different types of land and the land situate far away form Simla Road and have no irrigation facilities, whereas a part of disputed land is adjacent to Simla Road and the said part of the land is hardly one kilometer away from Smila Road having irrigation facility from Bhura Shah Nala. The Reference Court also observed that the exemplars filed on behalf of the petitioners are that better basis to calculate the compensation. Accordingly the Reference Court concluded that the market value of the plot Nos. 3/1 and 3/7 measuring 7.0 acres comes to Rs. 30,000/- per acre in the year 1978 and for the plot Khasra Nos. 20/2, 22/2 and 24/2 measuring 0.62 acre comes to Rs. 46000/- per acre in the year 1978. It also observed that during the two years, taking into account the rise in prices the increase in the compensation was 20%. Thus the rate of the land comprised Khasra plot Nos. 3/1 and 3/7 in February, 1980 was fixed @ Rs. 36000/- per acre and that of plot Nos. 20/2, 22/2 and 24/2 at Rs. 55,200/- per acre. In this way the valuation of the acquired land situated near Simla Road and comprised of Khasra Nos. 20/2, 22/2 and 24/2 (.62 acre) was fixed at Rs. 36,800/- per acre, i.e. Rs. 22,814/-. Similarly the rate of land comprised of plot Nos. 3/1 and 3/7 (7.0 acre) was fixed Rs. 1,68,000/-. The Reference Court also awarded solatium @ 30% U/S 23(2) of the 'Act'. Interest on the increased balance amount was

awarded @ 6% per annum up-to 30-6-1982 and thereafter @ 12% per annum.

8- The learned counsel for the parties also brought to the notice of the court that in respect of the same scheme of Khara Hydro Electric Project for construction of Escape Channel and Housing Colony, some other land was also acquired of the same village and the learned Single Judge of this Court in the F.A. No. 573 of 2001, State Versus Farjand Ali and others, vide judgment dated 11-10-2004, has awarded the compensation @ Rs. 36,800/- per acre along with solatium @ 30%. Learned Standing Counsel has conceded that no appeal was preferred by the State against the decision of the learned Single Judge and it has become final. The learned Standing Counsel also agreed that the value of the disputed land @ Rs. 36,800/- per acre is just and adequate, as awarded by the learned Reference Court.

9- In the aforesaid circumstances, the impugned judgment and award rendered by the Reference Court needs no interference.

10- Accordingly the appeal is dismissed. The impugned judgment and award dated 18-1-1985 passed by the Reference Court/Addl. District Judge, Dehradun is hereby confirmed. No order as to cost.

(B.C. Kandpal, J)

Dated: 12-9-2006

ISB